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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/447,030	11/22/1999	RAINALD FORBERT	AE97/151US	3281	
7590	09/21/2010		EXAMINER		
Mary E. Porter Cabot Corporation 157 Concord Road Billerica, MA 01821-7001		NGUYEN, NGOC YEN M			
		ART UNIT	PAPER NUMBER	1793	
		MAIL DATE	DELIVERY MODE	09/21/2010 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Mailed:

In re application of : DECISION ON
Forbert : PETITION
Serial No. 09/447,030 :
Filed: November 22, 1999 :
For: METHOD FOR PRODUCING SUBSTANTIALLY
GLOBULAR LYOGELS AND AEROGELS

SEP 21 2010

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on May 13, 2010 to withdraw the final status of the Office Action dated March 16, 2010.

In response to the previous Office Action mailed June 29, 2009, Applicants amended claims 26, 27 and 28 to specify that the lyosol or hydrosol is introduced into an atmosphere flowing (rather than "which flows") substantially against the direction of gravity. In the Final Office action dated March 15, 2010 the Examiner introduces a new rejection under 35 USC 103(a) as being unpatentable over WO 95/00617 in view of Fernholz '199 (a reference previously applied by the Examiner).

WO 95/00617 does not address an atmosphere flowing substantially against the direction of gravity. A new ground for rejection that involves this reference could not have been necessitated by Applicants amendment of the claims. A review of the record does not indicate that the new ground for rejection is based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

DECISION

The petition for withdrawal of finality is **GRANTED**.

/W. GARY JONES/
W. Gary Jones, Director
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